

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**CAUSE NO. 1:23-cr-50-LG-RPM-1**

**ALBERT LEE GWINN, JR.**

**ORDER DENYING DEFENDANT'S MOTION TO DISMISS**

**BEFORE THE COURT** is the [26] Motion to Dismiss filed by Defendant, Albert Lee Gwinn, Jr. This Defendant is charged by indictment for knowingly possessing a firearm while a convicted felon, in violation of 18 U.S.C. § 922(g)(1) and § 924(a)(2). Defendant's [26] Motion to Dismiss the Indictment argues that, by applying the recent Supreme Court decision in *New York State Rifle & Pistol Assoc., Inc. v. Bruen*, 597 U.S. --- (2022), these statutes are unconstitutional. A hearing on the Motion was held on November 28, 2023. After due consideration of the arguments of counsel, the record, and the applicable law, the Court finds that the Motion should be denied.

Defendant's Motion rests on the alleged unconstitutionality of section 922(g)(1), which prohibits the possession of a firearm by a person "who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year." 18 U.S.C. § 922(g)(1). However, the conduct regulated by the statute—possession of a firearm by a felon—has been extensively litigated in the federal courts following the release of the Supreme Court's decision in *Bruen*. As this Court noted in *United States v. Schnur*, --- F. Supp. 3d ---, 2023 WL 4881383 (S.D. Miss.

July 31, 2023), there is a virtual unanimity in the district courts of the Fifth Circuit upholding section 922(g)(1) in *Bruen*'s wake. In that decision, this Court joined the majority opinion of district courts and found that section 922(g)(1) survives *Bruen*'s textual and historical scrutiny. *Id.* As noted by the Court at the hearing on this matter, there has been no relevant change in the law since *Schnur* was decided; as such, Defendant has offered no good legal justification to depart from the considerable precedent cited by the Court. Hence, the Court hereby adopts by reference its opinion in *Schnur* and denies the pending [26] Motion to Dismiss for the reasons stated therein.

**IT IS THEREFORE ORDERED AND ADJUDGED** that the [26] Motion to Dismiss filed by Defendant, Albert Lee Gwinn, Jr., is **DENIED**.

**SO ORDERED AND ADJUDGED** this the 28<sup>th</sup> day of November, 2023.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.

UNITED STATES DISTRICT JUDGE